

FILED

2:19 pm Apr 24 2018

**Clerk U.S. District Court
Northern District of Ohio
Cleveland**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RAPHAEL LEWIS-HILL,

Petitioner,

V.

CHAE HARRIS,

Respondent.

CASE NO. 1:18 CV 904

JUDGE DAN AARON POLSTER

MEMORANDUM OF OPINION
AND ORDER

On April 19, 2018, petitioner *pro se* Raphael Lewis-Hill filed the above-captioned habeas corpus action. The petition alleges he is incarcerated at the Warren Correctional Institution, despite the fact that his sentence has expired.

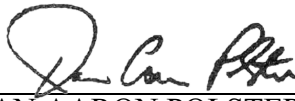
A federal district court may entertain a petition for a writ of habeas corpus by a person in state custody only on the ground that the custody violates the Constitution or laws of the United States. Furthermore, the petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254.

Even assuming petitioner might have a cognizable claim, there is no indication on the face of the petition that he has sought relief via an action for habeas corpus and/or mandamus in the Ohio courts. Given that he raises issues of statutory construction which might conceivably be resolved by the state courts, and that he asserts respondent has failed to perform a clear legal duty to release him, he has therefore not yet exhausted available state remedies. *Cf. Brewer v. Dahlberg*, 942 F.2d 328, 336-37 (6th Cir. 1991) (petitioner required to seek writ of habeas corpus under Ohio law where

he alleged parole revocation occurred after sentence expired).

Accordingly, this action is dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed.R.App.P. 22(b).

IT IS SO ORDERED.



DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE